

REMARKS

Applicant respectfully traverses the 35 U.S.C. § 103(a) rejection of claims 1-4.

Applicant's representative thanks the Examiner for her time on the telephone on December 22, 2006, to discuss the abstract. The abstract has been amended to comply with the requirements of the M.P.E.P. No new matter is added.

The Examiner rejected claims 1-4 under 35 U.S.C. § 103(a) over U.S. Patent No. 5,804,148 ("Kanesaka") in view of U.S. Patent No. 5,591,413 ("Toyoda"). Applicant respectfully traverses the rejection of claims 1-4 over Kanesaka in view of Toyoda, for at least the following reasons.

The Examiner has not established a prima facie showing of obviousness. To do so, an Examiner must meet three basic criteria. Among these criteria is the requirement that the cited reference or references must teach or suggest **all** of the claim limitations. See M.P.E.P. § 2143. Applicant respectfully submits that the Examiner has not met at least this criteria in the present case.

The Examiner admits that "Kanesaka fails to show a three-way catalyst wherein a noble metal is loaded higher on a high loading position disposed on an upstream part of the three-way catalyst than on an ordinary portion of the three-way catalyst." Office Action at 3. The Examiner relies on Toyoda to cure the deficiencies of Kanesaka, contending that "Toyoda teaches a metal carrier for a catalytic converter (fig. 2A) wherein a three-way catalyst (12, 11, 12) comprised of a noble metal/precious metal (col. 1, lines 30-34) loaded higher on a high loading portion" *Id.*

Applicant respectfully asserts that Toyoda does not teach loading a noble metal/precious metal catalyst higher on a high loading position as recited, e.g., in

claim 1. The portion of Toyoda that the Examiner cites as teaching noble/precious metal catalysts, col. 1, lines 30-34, does not disclose a three-way catalyst with a noble metal loaded on an upstream side. Moreover, Toyoda lists that its preferred catalysts include "at least two from among a nitrogen oxides reduction catalyst, an oxidation catalyst, and a reduction catalyst." Toyoda at col. 2, lines 35-38. Thus, Toyoda does not disclose the use of noble/precious metals as claimed.

In addition, the three-way catalyst taught by Toyoda consists of "a first honeycomb structure **11** and two honeycomb structures **12** arranged coaxially with the first honeycomb structure and in contact with each of both end portions **11a**, **11b** of the first honeycomb structure" *Id.* at col. 3, lines 27-31. The first honeycomb structure **11**, therefore, is surrounded by the two second honeycomb structures **12** on either side, so that the structures **12** are located at the highest (most upstream) and lowest (downstream) loading positions. See *also* Toyoda at col. 2, lines 47-50. Thus, despite the Examiner's assertions to the contrary, the first honeycomb structure **11** is not the high loading portion, but rather is the ordinary portion of the three-way catalyst taught by Toyoda.

Finally, Toyoda teaches that the first honeycomb structure is provided with a catalyst-carrying layer and a greater concentration of air passages "enabling an increase in catalytic efficiency." *Id.* at col. 2, lines 42-44. The second honeycomb structures are taught as not being "provided with a catalyst-carrying layer," so that "no heat is generated by catalytic reaction." *Id.* at col. 5, lines 27-30. If the second honeycomb structures were to have a catalyst, there would be less catalytic effect due to the structures having a smaller concentration of air passages than the first

honeycomb structure. The first honeycomb structure, therefore, which is not the furthest upstream in the three-way catalyst of Toyoda, always has a higher concentration of catalyst.

Toyoda does not teach loading a noble metal/precious metal catalyst higher on a high loading position, and hence cannot cure the deficiencies of Kanesaka. Accordingly, the combination of Kanesaka in view of Toyoda does not teach or suggest all of the claim limitations of independent claim 1, and no prima facie case of obviousness exists.

As discussed above, the Examiner has not established and cannot show that the cited references teach all of the recited claim limitations. Since the Examiner has not established a prima facie case of obviousness with respect to independent claim 1, she also has not established a prima facie case with respect to the dependent claims, further rendering this rejection improper.

Accordingly, Applicant respectfully requests the withdrawal of the § 103(a) rejection.

In view of the above amendment and remarks, Applicant respectfully requests reconsideration of this application, and the timely allowance of the pending claims.

If the Examiner believes a telephone conference could be useful in resolving any of the outstanding issues, he is respectfully urged to contact Applicant's undersigned counsel at 202-408-4368.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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